

REMARKS

Reconsideration of this Application is respectfully requested. Claims 1-30 are pending; claims 31-35 are canceled without prejudice; claim 1-30 are original. The Remarks below are directed to the rejections of the outstanding Office Action.

Remarks to Restriction Requirement

Group I, claims 1-30, is elected for prosecution. The claims of Group II are canceled without prejudice. Election of a single nucleotide sequence is traversed; however to be fully responsive to the Office Action, SEQ ID No. 3 (DNA sequence encoding β -glucuronidase from *Penicillium canescens* isolate RPK.

We traverse for the following reasons:

(1) The policy of the Office is to examine multiple sequences in a single application. In the Office Action, the opening sentences of the MPEP, Section 2434, are quoted at the top of page 3. This section however continues on positing that:

In establishing the new policy, the Commissioner has partially waived the requirements of 37 CFR 1.141 and will permit a reasonable number of such nucleotide sequences to be claimed in a single application. Under this policy, in most cases, up to 10 independent and distinct nucleotide sequences will be examined in a single application without restriction. Those sequences which are patentably indistinct from the sequences selected by the applicant will also be examined. Nucleotide sequences encoding the same protein are not considered to be independent and distinct and will continue to be examined together. In some exceptional cases, the complex nature of the claimed material may necessitate that the reasonable number of sequences to be selected be less than 10.

The Office's own policy therefore allows up to 10 sequences to be examined in a single application; in this application, there are only 5 nucleotide sequences claimed. The Office Action does not provide any reason to dismiss its own policy in the present case.

(2) The claimed sequences moreover are related to each other in that they encode fungal β -glucuronidases. While the DNA sequences are not identical, the protein encoded by each of the sequences is the same - β -glucuronidase. Thus, the sequences are

members of a single genus.

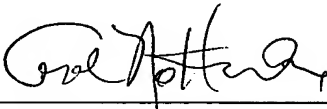
In summary, the Office Action does not provide any reason to require election of a single sequence, and the requirement ignores the Office's own stated policy. Therefore, the Examiner is respectfully requested to withdraw the election requirement.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Assignee therefore respectfully requests that the Examiner reconsider the noted outstanding requirement and that it be withdrawn. Assignee believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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